

Message Text

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ACTION NEA-10

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CINCPAC FOR POLAD

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TAGS: PINT, SHUM, PK
SUBJECT: BHUTTO APPEAL ROLLS ON: CLARK AND CONFESSIONS IN
RAWALPINDI.

REF: (A) ISLAMABAD 6771 (B) ISLAMABAD 6573 (NOTAL)
(C) ISLAMABAD 6532

1. SUMMARY: THE PAKISTAN SUPREME COURT'S HEARING ON THE APPEAL
OF FORMER PRIME MINISTER BHUTTO AND FOUR OTHERS ON THEIR MUR-
DER CONSPIRACY CONVICTIONS ENDED ITS SIXTH WEEK JULY 12.

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INCREASED PUBLIC INTEREST IN THE PROCEEDINGS RESULTED FROM
THE ATTENDANCE OF FORMER US ATTORNEY GENERAL RAMSEY CLARK
AND THE BELATED CONFESSION OF ONE OF THE APPELLANTS. END
SUMMARY.

2. THE PAKISTAN SUPREME COURT'S HEARING IN THE BHUTTO
APPEAL ENTERED A NEW STAGE THIS WEEK, AS BHUTTO'S LAWYER,

YAHYA BAKHTIAR, BEGAN HIS FORMAL ARGUEMENT, HAVING AT LAST FINISHED THE READING OF ALL THE EVIDENCE PRESENTED IN THE LAHORE HIGH COURT TRIAL.

3. THE APPEAL SPARKED WIDER PUBLIC INTEREST MAINLY BECAUSE OF THE HIGH VISIBILITY ATTENDANCE IN THE RAWALPINDI COURT ROOM OF FORMER US ATTORNEY GENERAL RAMSEY CLARK. WE HAVE REPORTED CLARK'S ACTIVITIES REFTELS A AND B.

4. THE OTHER HIGHLIGHT CAME JULY 10, WHEN MIAN MOHAMMAD ABBAS, ONE OF THE FIVE APPELLANTS, FILED A STATEMENT CONFESSING HIS PARTICIPATION IN THE MURDER/CONSPIRACY. ABBAS SAID THAT HE HAD EXPERIENCED A "COMPLETE METAMORPHOSIS" SINCE BEING SENTENCED TO DEATH BY THE LAHORE COURT AND FELT THE TIME HAD COME TO MAKE A FULL DISCLOSURE. ABBAS SAID THAT THE "EVIDENCE RECORDED IN THE CASE IS SUBSTANTIALLY CORRECT." HE ADDED, HOWEVER, THAT HE HAD BEEN COERCED, BOTH BY THREATS TO HIS PERSON AND TO HIS FAMILY, TO BE INVOLVED IN THE CONSPIRACY. THE COURT'S REACTION TO ABBAS' ADMISSION WAS ANTI-CLIMATIC; THEY SIMPLY PLACED IT IN THE RECORD. BAKHTIAR IGNORED ABBAS' STATEMENT DURING THE REST OF THE WEEK'S ARGUMENT.

5. IN HIS FORMAL ARGUMENT BAKHTIAR FOCUSED ON THREE MAIN ISSUES:
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--BAKHTIAR NOTED THAT, EVEN BASED ON THE EVIDENCE SUBMITTED TO THE LAHORE COURT, WHICH BAKHTIAR CLAIMED WAS INCOMPLETE AND POORLY GATHERED, THE PROSECUTION HAD NOT MADE THE CASE AGAINST THE FORMER PRIME MINISTER;

--BAKHTIAR ALSO SAID THAT BHUTTO HAD NOT RECEIVED A FAIR TRIAL OWING BOTH TO THE BIAS OF THE LAHORE HIGH COURT AND TO THE PUBLIC STATEMENT MADE IN SEPTEMBER, 1977 BY CHIEF MARTIAL LAW ADMINISTRATOR (CMLA) GENERAL ZIA UL-HAQ THAT BHUTTO WAS "A MURDERER;"

--IN THE LAST DAYS OF THIS WEEK'S SESSION, BAKHTIAR BEGAN TO PURSUE THE QUESTION OF CRIMINAL CONSPIRACY. ALTHOUGH HIS ARGUMENT IS NOT YET FULLY DEVELOPED, BHUTTO'S ATTORNEY HELD THAT UNDER THE LAW A CONSPIRACY REQUIRES A VOLUNTARY AGREEMENT AMONG AT LEAST TWO PARTIES TO COMMIT A CRIME. BAKHTIAR ARGUED THAT (1) SINCE THE ONLY CONSPIRACY CONNECTION TO BHUTTO HAS BEEN MADE BY THE TESTIMONY OF A STATE'S WITNESS, AND (2) THE LOWER-RANKING AMONG THE CONSPIRATORS WERE SUBJECT TO COERCION FROM THEIR SUPERIORS --BUT NOT BHUTTO HIMSELF -- NO CONSPIRACY EXISTED IN

WHICH THE FORMER PRIMIN PLAYED A PART.

6. ONE OTHER SIDELIGHT: FOR THE FIRST TIME IN THE APPEAL, THE SUPREME COURT EXPLICITLY CRITICIZED THE LAHORE COURT, NOTINLDTHAT A WITNESS WHO WAS DENIED HIS DAY IN COURT TO SUPPORT THE DEFENSE SHOULD, IN FACT, HAVE BEEN CALLED TO THE STAND. IT REMAINS TO BE SEEN IF THE SUPREME COURT WILL HEAR HIM.

7. THE HEARING RESUMES JULY 16.

8. COMMENT: BAKHTIAR'S DECISION TO MOVE DIRECTLY FROM THE EXAMINATION OF EVIDENCE TO THE FORMAL ARGUMENT MAY PRECLUDE THE CALLING OR REHEARING OF WITNESSES. IF THE LIMITED OFFICIAL USE

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DEFENSE TEAM HAS DECIDED TO FORGO WHAT WOULD ULTIMATELY HAVE BECOME A NEW TRIAL, THE APPEAL COULD BE HEADING FOR A SPEEDIER DENOUEMENT. WE HAVE HEARD AUGUST 15 MENTIONED AS THE COURT'S TARGET DATE FOR COMPLETION OF HEARING THE APPEAL.
HUMMEL

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